

## Message Text

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41 40

ACTION EUR-25

INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-07 INR-10 L-03

NSAE-00 NSC-10 PA-04 RSC-01 PRS-01 SPC-03 SS-20

USIA-15 SAM-01 IO-14 ACDA-19 OMB-01 EB-11 USPS-02

DRC-01 NIC-01 SY-10 (ISO) W  
----- 005798

R 121806Z FEB 74

FM AMEMBASSY BONN

TO SECSTATE WASHDC 0394

C O N F I D E N T I A L SECTION 01 OF 02 BONN 02352

E.O. 11652: GDS

TAGS: PINS, PINR, GW, US

SUBJECT: FRG-PROPOSED AMENDMENT TO 1968 FEDERAL LAW  
ON RESTRICTION OF LETTER, MAIL AND COMMUNICATIONS  
SECURITY

SUMMARY: AT SHORT NOTICE REQUEST OF STATE SECRETARY  
FRANK OF FONOFF, CONVEYED FEBRUARY 11, REPS OF US, UK  
AND FRENCH AMBASSADORS MET FEBRUARY 12 WITH FRANK AND  
PARLIAMENTARY STATE SECRETARY BAUM OF INTERIOR MINISTRY.  
PURPOSE OF MEETING WAS TO DETERMINE WHETHER ANY REAL  
DIFFICULTIES WERE CAUSED BY STATED REQUIREMENTS OF  
EMBASSIES IN THEIR NOTES OR WHETHER EXPLANATIONS AND  
ASSURANCES MADE BY FRG REPS AT MEETING WOULD BE ADEQUATE,  
PERMITTING FRG CABINET TO PROCEED TO CONSIDERATION OF  
DRAFT LAW ALREADY SCHEDULED FOR FEBRUARY 13.  
ASSURANCES CONVEYED BY FEDERAL GOVERNMENT REPS PROVED  
SATISFACTORY TO THREE EMBASSY REPS AND AGREEMENT WAS  
REACHED THAT NO FURTHER CONSULTATION WAS REQUIRED. A  
SMALL WORKING GROUP IS SCHEDULED TO MEET FEBRUARY 14 TO  
WORK OUT AGREED MINUTES RECORDING THE ASSURANCES GIVEN  
IN LIEU OF ANY FRG REPLIES TO THE NOTES FROM THE  
EMBASSIES. END SUMMARY.

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1. WITH RESPECT TO NOTIFICATION AND IN LIGHT OF THE

EXPECTATION STATED IN THE FRENCH AND UK NOTES THAT THEIR PRIOR CONSENT WOULD BE REQUIRED BEFORE NOTIFICATION TO THE PERSON SUBJECTED TO THE MEASURES INITIATED AT THEIR REQUEST WOULD BE GIVEN, THE FRG REPS GAVE ASSURANCES THAT THERE WOULD BE CONSULTATION WITH REQUESTING ALLIED AUTHORITIES IN EACH CASE PRIOR TO POSSIBLE NOTIFICATION, AND THAT NO NOTIFICATION WOULD BE GIVEN WITHOUT FULL AND CONSCIENTIOUS CONSIDERATION OF THE VIEWS OF THE RESPECTIVE ALLY. IT WAS EXPLAINED THAT ANY DOCUMENTS REFLECTING THAT AN ALLIED AUTHORITY INITIATED THE REQUEST FOR MONITORING MEASURES

-WOULD NOT BE SUBJECT TO RELEASE THROUGH THE COURTS OR OTHERWISE. IN INTERPRETING "OBJECTIVE OF THE MEASURES" TO DETERMINE WHETHER NOTIFICATION COULD ENDANGER THEM, THE FRG AUTHORITIES WOULD TAKE INTO FULL ACCOUNT THE PURPOSE OF THE INITIATING ALLIED AUTHORITY IN SEEKING THE IMPOSITION OF MEASURES. IN THIS CONNECTION THE FRG REPS READ A PASSAGE FROM THE 1970 CONSTITUTIONAL COURT OPINION DESCRIBING FRG SECURITY AS IDENTICAL WITH THAT OF ALLIED TROOPS STATIONED IN FRG. THEY STATED THAT OF COURSE THE 1968 ADMINISTRATIVE AGREEMENTS WOULD REMAIN IN FORCE AND UNAFFECTED BY THE PROPOSED AMENDMENT TO THE FRG MONITORING LAW.

2. RE DRAFT LAW PROVISION OF LEGAL RECOURSES, THESE FOLLOW ANYWAY FROM THE 1970 CONSTITUTIONAL COURT DECISION THAT NOTIFICATION MUST BE GIVEN IF IT WOULD NOT ENDANGER THE OBJECTIVE OF THE MEASURES, THE PERSON ONCE NOTIFIED HAVING LEGAL RECOURSE. EXPRESS PROVISION WAS DEEMED NECESSARY TO DEAL WITH CURRENT LAW LANGUAGE EXCLUDING LEGAL RECOURSE. RECOURSE COULD ONLY DEAL WITH PAST AND TERMINATED MEASURE, AND COULD ONLY QUESTION ITS LEGALITY, HAVING NO PROSPECTIVE EFFECT, DAMAGES BEING

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R 121806Z FEB 74

FM AMEMBASSY BONN

TO SECSTATE WASHDC 0395

C O N F I D E N T I A L SECTION 02 OF 02 BONN 02352

HIGHLY THEORETICAL AND IN NO EVENT DEVOLVING ON ALLIED REQUESTING AUTHORITIES WHO NOT INVOLVED IN MEASURES SO FAR AS RECORDS AVAILABLE TO COURT ARE CONCERNED.

3. CONCERNING THE US SUGGESTION FOR THE INCLUSION OF ARTICLE 87 OF THE FRG PENAL CODE IN THE ENUMERATION CONTAINED IN ARTICLE 1(2) OF THE 1968 LAW, FRG REPS SAID THIS WAS A NEW SUGGESTION OF CONSIDERABLE INTEREST THAT WOULD REQUIRE FURTHER STUDY BY INTERIOR AND JUSTICE MINISTRIES DURING COURSE OF LEGISLATIVE PROCESSES CONCERNING THE DRAFT LAW. THEY SAID NO RECENT INSTANCES COVERED ONLY BY SECTION 87 WERE KNOWN, AND SUCH EVENTS AS WOULD BE COVERED BY SECTION 87 WOULD LIKELY BE ENCOMPASSED BY ONE OR MORE OF THE OTHER SECTIONS OF THE PENAL CODE ENUMERATED IN ARTICLE 1(2) OF THE 1968 LAW. MINISTER CASH INDICATED THAT THE ASSURANCE THAT THIS SUGGESTION WOULD BE GIVEN SERIOUS CONSIDERATION WAS SATISFACTORY TO THE US AUTHORITIES.

4. COPIES OF THE AGREED MINUTES DRAFTED AT THE UPCOMING WORKING GROUP SESSION WILL BE SENT TO THE DEPARTMENT IN THEIR FINAL FORM.

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5. COMMENT: FRG ASSURANCES MET EMBASSY'S EXPECTATIONS AS STATED IN ITS NOTE OF FEBRUARY 8. THE AGREED MINUTES COULD BE USEFUL PROVIDED THERE IS NO SLIPPAGE IN DRAFTING THEM FROM THE GENERAL ASSURANCES GIVEN DURING THE MEETING.

HILLENBRAND

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## Message Attributes

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**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
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